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Administration of justice at the United Nations

Outcome of the work of the Joint Appeals Board during 2005 and 2006 and statistics on the disposition of cases and work of the Panel of Counsel

Report of the Secretary-General

Summary

The present report is submitted in response to the request of the General Assembly to the Secretary-General, in its resolution 55/258 (sect. XI, para. 5), to report to the Assembly on an annual basis on the outcome of the work of the Joint Appeals Board. In response to that request, the report of the Secretary-General on the administration of justice in the Secretariat (A/61/71 and Corr.2) provided information concerning the outcome of the work of the Joint Appeals Board for the period 2004-2005. The present report provides information on the work of all Joint Appeals Boards of the Secretariat (New York, Geneva, Vienna and Nairobi) in 2006. The present report also compares 2006 and 2005 data. In response to the request of the Assembly in its resolution 57/307, the report also provides statistics on the disposition of cases and information on the work of the Panel of Counsel for 2006.

* A/62/150.

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I. Introduction

1. In its resolution 55/258 (sect. XI, para. 5), the General Assembly requested the Secretary-General to report to it on an annual basis on the outcome of the work of the Joint Appeals Board. In response to that request, the report of the Secretary-General on the administration of justice in the Secretariat (A/61/71 and Corr.2) provided information on the work of all Joint Appeals Boards of the Secretariat (New York, Geneva, Vienna and Nairobi) for the period 2004-2005. The present report provides information and statistical data on the work of the Joint Appeals Boards in 2006.

2. In its resolution 57/307 (para. 21), the General Assembly requested the Secretary-General to include statistics on the disposition of cases and information on the work of the Panel of Counsel in his annual report on the administration of justice in the Secretariat. In response to that request, the above-mentioned report of the Secretary-General on the administration of justice provided information on the disposition of cases and work of the Panel of Counsel for 2005. The present report provides such information for 2006.

II. Outcome of the work of the Joint Appeals Board

3. Table 1 and figure I below set out information, in both numerical and graphic form, on the work of the Joint Appeals Boards in New York, Geneva, Vienna and Nairobi for 2005 and 2006 by providing the number of appeals and suspension of action cases filed and disposed of[1] during those years.

4. As can be seen from the information presented in table 1, there was an increase in the number of appeals filed with the Joint Appeals Boards during 2006. The New York Joint Appeals Board received 9 more appeals in 2006 than in 2005, an increase of 9 per cent. As for the corresponding figures for the other Joint Appeals Boards, the Geneva Board received 3 more appeals as compared with 2005, an increase of 13 per cent. The Vienna Board received 1 more appeal in 2006, an increase of 20 per cent, and the Nairobi Board received 5 fewer appeals, a decrease of 31 per cent.

5. There is also a difference between the two periods in the number of cases disposed of by the Joint Appeals Boards. Both the New York and the Geneva Joint Appeals Boards disposed of more appeals during 2006 than in 2005. Specifically, the number of appeals disposed of by the New York Joint Appeals Board increased by 19 per cent in 2006, while the number of appeals disposed of by the Geneva Joint Appeals Board increased by 4 per cent. The Vienna Joint Appeals Board disposed of 2 more cases in 2006 than during 2005, an increase of 200 per cent, while in Nairobi the Board disposed of 10 fewer cases in 2006 than in 2005, a decrease of 48 per cent. This decrease in the number of cases disposed of by the Nairobi Joint Appeals Board was due to: (a) the post of Secretary, Joint Appeals Board, being vacant for three months in 2006; and (b) the disposal of a backlog of more complex and time-consuming cases that were pending from previous years.

[1] The term "disposed of" refers to appeals with respect to which the Joint Appeals Board has completed its involvement. The figures may include appeals which, though filed during a previous year, were disposed of in subsequent years owing to an existing backlog. This explains why, at times, the number of appeals disposed of is higher than the number of appeals filed.

6. As to the number of pending appeals at the end of the reporting period, the Vienna Joint Appeals Board had 9 pending appeals, the Nairobi Joint Appeals Board had 9 pending appeals, and the Geneva Joint Appeals Board had 33 pending appeals and 13 pending disciplinary cases. The New York Joint Appeals Board continues to have the highest number of pending appeals. As at the end of 2006, there were 93 pending appeals at the New York Joint Appeals Board. The New York Joint Appeals Board also had 25 pending disciplinary cases at the end of 2006.

7. Disciplinary cases are also handled by the secretariats of the Joint Appeals Boards and are always considered on a priority basis. In 2006, 24 disciplinary cases were referred to the New York Joint Disciplinary Committee, which disposed of 18 of those cases. The Geneva Joint Disciplinary Committee received 8 new disciplinary cases during 2006 and disposed of 13 disciplinary cases during the same period. The Nairobi Joint Disciplinary Committee considered 1 disciplinary case. No cases were submitted to the Vienna Joint Disciplinary Committee in 2006.

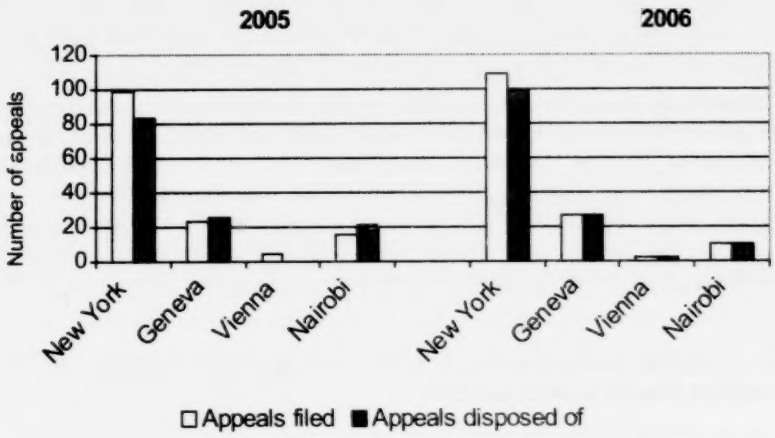
Table 1
Number of appeals and suspension of action cases filed and disposed of by all Joint Appeals Boards in 2005 and 2006

Standing Joint Appeals Boards	*2005*	*2006*	*Variance (percentage)*
New York: appeals filed	99	108	+9
New York: appeals disposed of	83	99[a]	+19
Geneva: appeals filed	24	27	+13
Geneva: appeals disposed of	26	27	+4
Vienna: appeals filed	5	6	+20
Vienna: appeals disposed of	1	3	+200
Nairobi: appeals filed	16	11	-31
Nairobi: appeals disposed of	21	11	-48

[a] One of these appeals comprised 232 cases contesting the same administrative decision, where the Secretary-General, after a long process of negotiations and conciliation, initially agreed to direct submission of the cases to the United Nations Administrative Tribunal and subsequently decided to rescind the contested decision.

Figure I

Number of appeals and suspension of action cases filed and disposed of by all Joint Appeals Boards in 2005 and 2006



8. Tables 2 and 3 and figures II and III below provide, in both numerical and graphic form, information on the decisions taken by the Secretary-General on reports of the Joint Appeals Boards for 2005 and 2006, respectively.

Table 2

Decisions by the Secretary-General on unanimous recommendations of the Joint Appeals Boards on appeals and requests for suspension of action in 2005

Location of Joint Appeals Board	*Decisions on reports of the Board*	*Unanimous recommendations of the Board*	*Unanimous recommendations of the Board fully accepted by the Secretary-General*	*Unanimous recommendations of the Board partially accepted by the Secretary-General*	*Unanimous favourable recommendations of the Board rejected by the Secretary-General*	*Unanimous unfavourable recommendations of the Board*
New York	90	87	69 (79%)	10 (12%)	8 (9%)	35 (40%)
Geneva	18	18	14 (78%)	2 (11%)	2 (11%)	11 (61%)
Vienna	4	4	4 (100%)	0	0	3 (75%)
Nairobi	20	19	14 (74%)	3 (16%)	2 (11%)	11 (58%)
Total	**132**	**128**	**101 (79%)**	**15 (12%)**	**12 (9%)**	**60 (47%)**

91% (full and partial acceptances)

Figure II

Decision by the Secretary-General on unanimous recommendations of the Joint Appeals Boards on appeals and requests for suspension of action in 2005

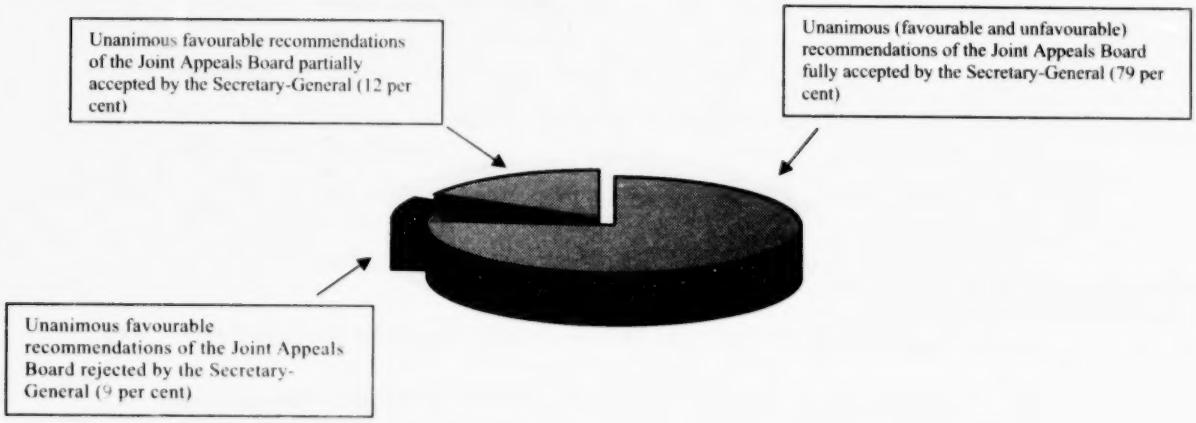

Unanimous favourable recommendations of the Joint Appeals Board partially accepted by the Secretary-General (12 per cent)
Unanimous (favourable and unfavourable) recommendations of the Joint Appeals Board fully accepted by the Secretary-General (79 per cent)
Unanimous favourable recommendations of the Joint Appeals Board rejected by the Secretary-General (9 per cent)

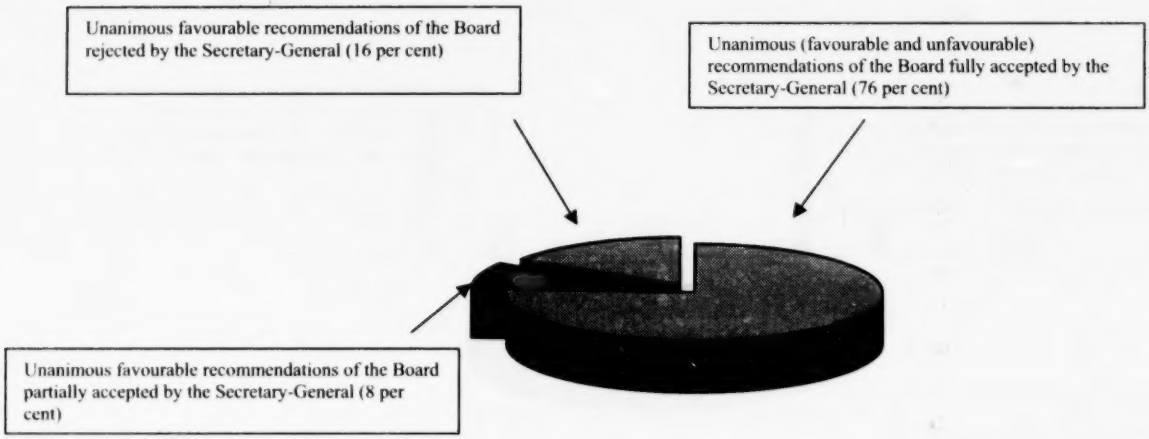
Table 3

Decisions of the Secretary-General on unanimous recommendations of the Joint Appeals Boards on appeals and requests for suspension of action in 2006

Location of Joint Appeals Board	*Decisions on reports of the Board*	*Unanimous recommendations of the Board*	*Unanimous recommendations of the Board fully accepted by the Secretary-General*	*Unanimous recommendations of the Board partially accepted by the Secretary-General*	*Unanimous favourable recommendations of the Board rejected by the Secretary-General*	*Unanimous unfavourable recommendations of the Board*
New York	64	62	46 (74%)	5 (8%)	11 (18%)	30 (48%)
Geneva	30	30	25 (83%)	2 (7%)	3 (10%)	20 (67%)
Vienna	2	2	1 (50%)	0	1 (50%)	1 (50%)
Nairobi	6	5	3 (60%)	1 (20%)	1 (20%)	2 (40%)
Total	**102**	**99**	**75 (76%)**	**8 (8%)**	**16 (16%)**	**53 (54%)**

84% (full and partial acceptances)

Figure III
Decisions of the Secretary-General on unanimous recommendations of the Joint Appeals Boards on appeals and requests for suspension of action in 2006


Unanimous favourable recommendations of the Board rejected by the Secretary-General (16 per cent)
Unanimous (favourable and unfavourable) recommendations of the Board fully accepted by the Secretary-General (76 per cent)
Unanimous favourable recommendations of the Board partially accepted by the Secretary-General (8 per cent)

9. As can be seen from tables 2 and 3 and figures II and III above, the percentage of full and partial acceptances by the Secretary-General of unanimous recommendations of the Joint Appeals Board decreased in 2006 compared with the previous year (91 per cent for 2005 and 84 per cent for 2006). The percentage of rejections by the Secretary-General of unanimous recommendations of the Board that were favourable to the appellants was low in both periods (9 per cent in 2005 and 16 per cent in 2006).

10. This is in line with the stated policy of the Secretary-General, which is normally to accept unanimous recommendations unless there is a compelling reason of law or policy not to do so. In all such instances, the decisions of the Secretary-General provide detailed reasons for such rejection, which in most cases is attributable to the incorrect application of law or policy by the Joint Appeals Board or inadequate fact-finding that is not supported by the available evidence. With the increased training for members of the Joint Appeals Boards and the Joint Disciplinary Committees in the applicable law and policies of the Organization and the availability of the web-based repository of the recent jurisprudence of the United Nations Administrative Tribunal (encompassing jurisprudence on judgements rendered from 1980 onwards), the Secretary-General trusts that unanimous recommendations will be both more reliably supported by the evidence and reflective of the applicable law, and that consequently the percentage of acceptable recommendations would remain at current levels or rise. The Secretary-General, however, would still have the discretionary authority to reject unanimous recommendations of the Joint Appeals Board should he find that it is in the interests of the Organization to do so.

11. During the reporting period for 2006, in addition to the regular functions required of them, the various secretariats of the Joint Appeals Boards were involved in the following activities:

(a) Providing advice and assistance to the Redesign Panel on the United Nations system of administration of justice and to management on issues relating to the various aspects of the reform of the internal justice system;

(b) Contributing to the preparation of the report of the Secretary-General on various aspects of the reform of the internal justice system;

(c) Providing reports on the status of the work of the Joint Appeals Boards to various oversight bodies, at their request;

(d) Drafting new rules for the Joint Appeals Boards and implementing time limits recommended by the Office of Internal Oversight Services;

(e) Preparing for plenary meetings of the Joint Appeals Boards and Joint Disciplinary Committees;

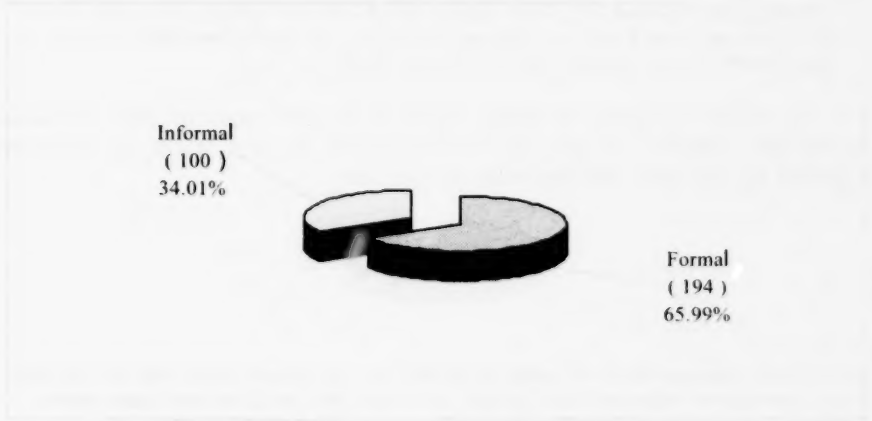
(f) Preparation of training materials and making training presentations for participants in the internal justice system;

(g) Creating, maintaining and improving websites and databases.

III. Disposition of cases and work of the Panel of Counsel

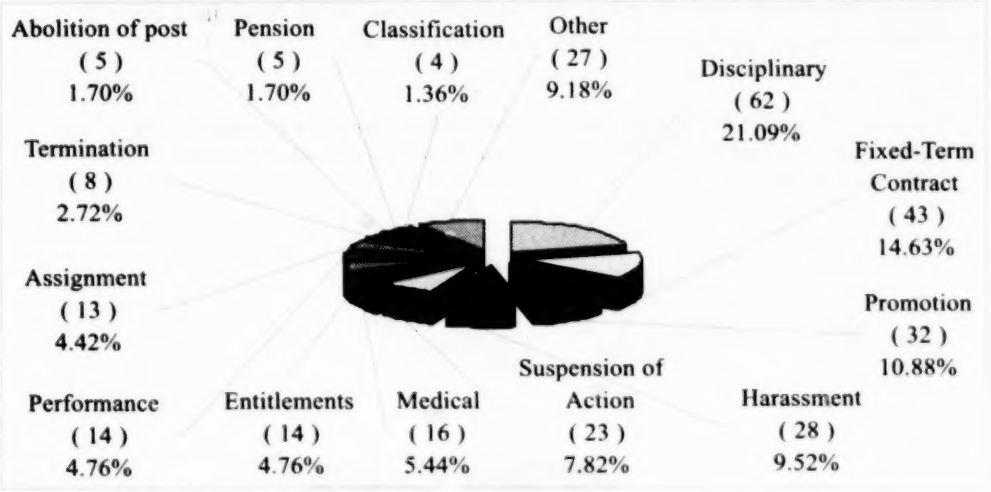
12. In 2006, 294 new cases were brought to the Panel of Counsel in New York, compared with 266 new cases in 2005, an increase of 11 per cent.[2] Of the 294 cases brought to the Panel of Counsel in 2006, 194 went through the formal appeals process and 100 were dealt with informally (see figure IV). In 2005, there were 150 formal cases and 116 informal cases. Formal cases increased by 29 per cent from 2005 to 2006, while informal cases decreased by 14 per cent.

Figure IV
Distribution of informal and formal cases in 2006



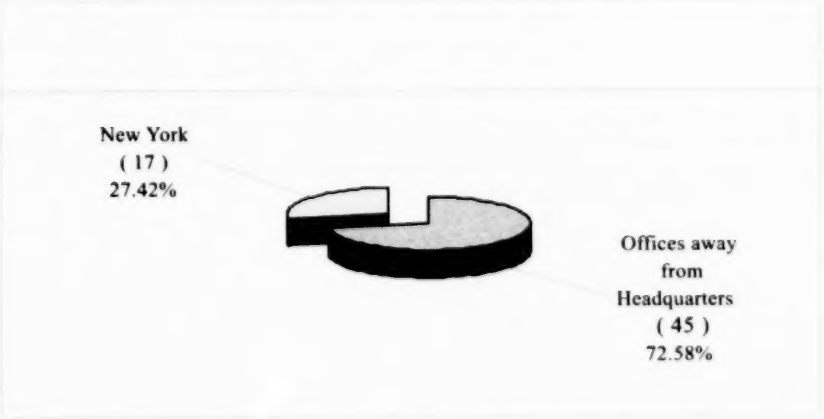
[2] Cases reported as new cases in previous reports are not included here, although many continue to involve the time and attention of both counsel and the Coordinator.

Figure VI
Subject and respective number of new cases dealt with by the Panel of Counsel during 2006



15. As seen in figure VII below, in 2006 a substantial majority (73 per cent) of disciplinary cases represented by members of the Panel of Counsel involved clients who were based in offices away from United Nations Headquarters and who were not therefore able to be physically present at their own hearings.

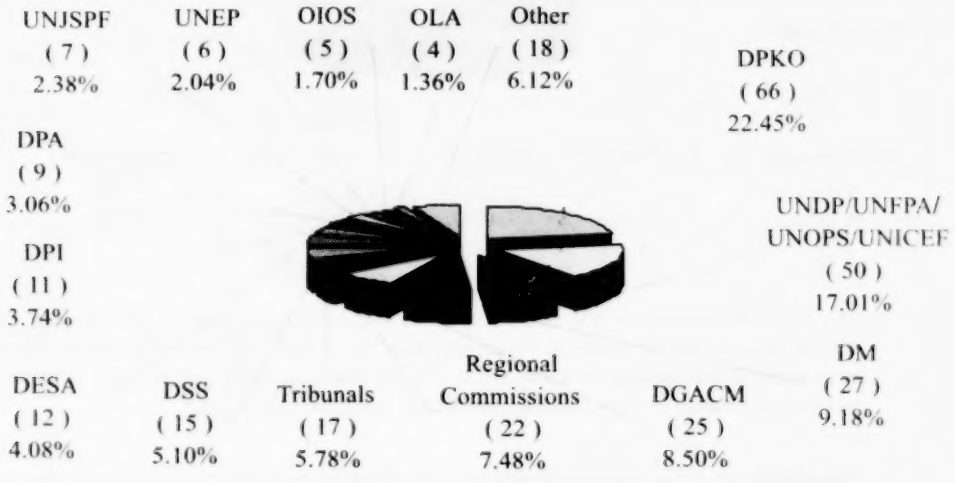
Figure VII
Distribution of disciplinary cases by duty station in 2006



16. As can be seen from figure VIII below, many of the requests for assistance addressed to the New York Panel of Counsel during 2006 came from staff members in departments and United Nations funds and programmes involved in field operations, in particular the Department of Peacekeeping Operations of the Secretariat, the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA), the United Nations Office for Project Services (UNOPS) and the United Nations Children's Fund (UNICEF).

Figure VIII

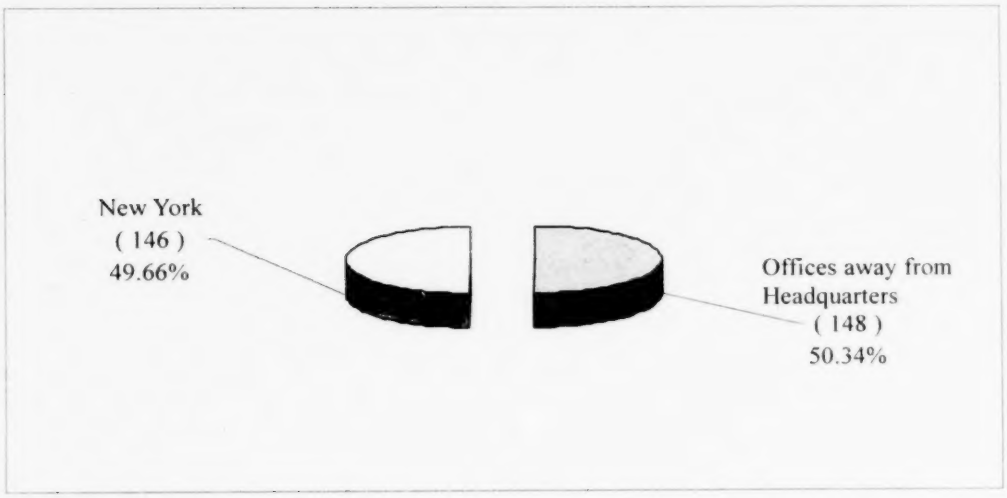
Departments of the Secretariat and United Nations funds and programmes where most requests for assistance from the New York Panel of Counsel originated in 2006



Abbreviations: DESA, Department of Economic and Social Affairs; DGACM, Department for General Assembly and Conference Management; DM, Department of Management; DPA, Department of Political Affairs; DPI, Department of Public Information; DPKO, Department of Peacekeeping Operations; DSS, Department of Safety and Security; OIOS, Office of Internal Oversight Services; OLA, Office of Legal Affairs; Tribunals, International Tribunal for the former Yugoslavia and International Tribunal for Rwanda; UNDP, United Nations Development Programme; UNEP, United Nations Environment Programme; UNFPA, United Nations Population Fund; UNICEF, United Nations Children's Fund; UNJSPF; UNOPS, United Nations Office for Project Services.

17. Figure IX below shows the distribution of cases in 2006 between New York and offices away from Headquarters.

Figure IX
Distribution of cases by duty station in 2006



18. The General Assembly may wish to take note of the present report.